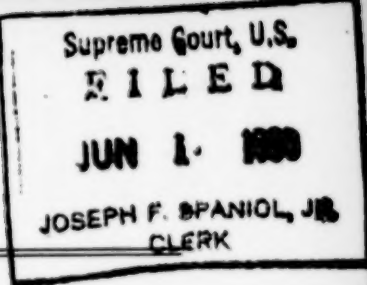


24
No. 89-1279



In The
Supreme Court of the United States
October Term, 1989

PACIFIC MUTUAL LIFE INSURANCE COMPANY,
Petitioner,
vs.

CLEOPATRA HASLIP, CYNTHIA CRAIG,
ALMA M. CALHOUN, and EDDIE HARGROVE,
Respondents.

On Writ Of Certiorari To The
Supreme Court Of Alabama

BRIEF OF THE ASSOCIATION FOR
CALIFORNIA TORT REFORM AS AMICUS
CURIAE IN SUPPORT OF PETITIONER

FRED J. HIESTAND
1121 L Street
Suite 100
Sacramento, California
95814
(916) 448-5100

ELLIS J. HORVITZ
*S. THOMAS TODD
HORVITZ & LEVY
15760 Ventura Boulevard
18th Floor
Encino, California 91436
(818) 995-0800

Attorneys for
The Association for California Tort Reform
*Counsel of Record

TABLE OF CONTENTS

	Page
Table Of Authorities.....	iii
Interest Of Amicus Curiae.....	1
Summary Of Argument.....	1
Argument.....	2
I. In Most States, Punitive Damages Are Private Fines Without Statutorily-Defined Limits	2
II. California Juries Routinely Render Large Puni- tive Damage Awards	3
III. California Trial Judges Grant New Trial Motions Or Remit Punitive Damage Verdicts In A High Percentage Of Cases	6
IV. Like Most States, California Has No Meaningful Standards To Guide A Jury In Determining The Amount Of A Punitive Award	8
A. California Juries Are Told To Consider Three Factors: (1) The Reprehensibility Of The Defendant's Conduct, (2) The Defen- dant's Financial Condition, And (3) The Ac- tual Damage Suffered By The Plaintiff	8
B. "Reprehensibility" Provides No Meaningful Guidance To A Jury.....	10
C. The Defendant's Financial Condition Provides No Guidance In Those Cases Where A Well- Defined Standard Is Needed The Most	10
D. A Defendant's Financial Condition Is An Irrelevant, If Not Unconstitutional, Consid- eration In Determining The Amount Of A Penalty.....	12

TABLE OF CONTENTS - Continued

	Page
E. Consideration Of The Actual Damages Suffered By The Plaintiff Has Not Proven To Be A Meaningful Criterion	13
V. California's Unfortunate Experience Points The Way For The Rest Of The Nation	15
VI. The Time Has Come To Invoke Due Process To Force State Legislatures To Do Their Job	17
Conclusion	18

TABLE OF AUTHORITIES

Page

CASES

Betts v. Allstate Ins. Co., 154 Cal.App.3d 688, 201 Cal.Rptr. 528 (1984).....	14
Carr v. Progressive Casualty Ins. Co., 152 Cal.App.3d 881, 199 Cal.Rptr. 835 (1984).....	13
Devlin v. Kearny Mesa AMC/Jeep/Renault, Inc., 155 Cal.App.3d 381, 202 Cal.Rptr. 204 (1984).....	15
Downey Savings & Loan Assn. v. Ohio Casualty Ins. Co., 189 Cal.App.3d 1072, 234 Cal.Rptr. 835 (1987).....	14
Dumas v. Stocker, 213 Cal.App.3d 1262, 262 Cal.Rptr. 311 (1989).....	10
Fenlon v. Brock, 216 Cal.App.3d 1174, 265 Cal.Rptr. 324 (1989).....	10
Gagnon v. Continental Casualty Co., 211 Cal.App.3d 1598, 260 Cal.Rptr. 305 (1989)....	9, 13, 15
Gertz v. Robert Welch, Inc., 418 U.S. 323 (1974)	2
Giaccio v. Pennsylvania, 382 U.S. 399 (1966).....	10
Goshgarian v. George, 161 Cal.App.3d 1214, 208 Cal.Rptr. 321 (1984).....	11
Grayned v. City of Rockford, 408 U.S. 104 (1972)	17
Hammond v. Gadsden, 493 So.2d 1374 (Ala. 1986)	16
International Bhd. of Elec. Workers v. Foust, 442 U.S. 42 (1979)	2, 13

TABLE OF AUTHORITIES - Continued

	Page
<i>Liodas v. Sahadi</i> , 19 Cal.3d 278, 137 Cal.Rptr. 635, 562 P.2d 316 (1977).....	14
<i>Neal v. Farmers Ins. Exch.</i> , 21 Cal.3d 910, 148 Cal.Rptr. 389, 582 P.2d 980 (1978).....	9
<i>Rosenbloom v. Metromedia, Inc.</i> , 403 U.S. 29 (1971).....	2
<i>Werschkuhl v. United California Bank</i> , 85 Cal.App.3d 981, 149 Cal.Rptr. 829 (1978).....	15
<i>Williams v. Illinois</i> , 399 U.S. 235 (1970)	12

OTHER AUTHORITIES

California Book of Approved Jury Instructions No. 14.71 (1989 Revision).....	9, 15
2 Ghiardi & Kircher, <i>Punitive Damages Law and Practice</i> § 21.01 at 2 (1989).....	3
Dobbs, <i>Handbook on the Law of Remedies</i> (1973) ...	14, 15
Ellis, <i>Fairness and Efficiency in the Law of Punitive Damages</i> , 56 S. Cal. L. Rev. 1 (1982).....	13, 14
Jury Verdicts Weekly, Inc., <i>Jury Verdicts Weekly</i>	3
Morris, <i>Punitive Damages in Tort Cases</i> , 44 Harv. L. Rev. 1173 (1931).....	13
Peterson, Sarma & Shanley, <i>Punitive Damages: Em- pirical Findings</i> (RAND Corp., Institute for Civil Justice, 1987).....	4, 6
Prosser & Keeton, <i>The Law of Torts</i> (5th ed. 1984)	14
Cal. Civ. Code § 3294 (West Supp. 1990).....	5, 8

INTEREST OF AMICUS CURIAE

The Association for California Tort Reform ("ACTR") is dedicated to improving California's civil liability system in terms of fairness, efficiency, economy, uniformity, and certainty. ACTR, which was organized twelve years ago as a non-profit public benefit corporation, is the oldest organization of its kind in the nation and presently has more than one thousand members representing business, the professions, local government, and individual citizens.

Multi-million-dollar punitive damage jury verdicts, verdicts that were rarely heard of as recently as twenty years ago, have become commonplace in California. It also has become commonplace for trial judges to intervene to reduce juries' excessive punitive verdicts. A civil liability system based on trial by jury in which judges grant remittiturs in a high percentage of cases is fundamentally flawed. ACTR's members wish to present their views to the Court concerning the urgent need for constitutional scrutiny of punitive damages.

SUMMARY OF ARGUMENT

We describe the anomaly of punitive damages and the serious problem that has resulted by presenting a study of California punitive damage jury verdicts over the 14-year period from January 1, 1976, through December 31, 1989. The study discloses that seven-figure punitive damage jury verdicts have become routine, and trial judges are finding it necessary to intervene and reduce

such verdicts in an unacceptably high percentage of cases.

We also briefly discuss California law on determining the size of punitive awards, which is similar to the law in most states, including Alabama. It will be readily apparent that existing law gives juries virtually unbridled discretion in setting the amount of punitive awards. This is why verdicts are so often outlandish and why it is necessary for trial judges to intervene with such frequency.

Our conclusion: a defendant has a right to trial by a jury operating under appropriate legal standards. Until state legislatures do their job and set maximum limits for punitive awards and establish meaningful criteria for juries to use, punitive damages are *per se* a violation of due process.

ARGUMENT

I.

IN MOST STATES, PUNITIVE DAMAGES ARE PRIVATE FINES WITHOUT STATUTORILY-DEFINED LIMITS.

Punitive damages serve the same function as criminal penalties and are in effect private fines. *International Bhd. of Elec. Workers v. Foust*, 442 U.S. 42, 48 (1979); *Gertz v. Robert Welch, Inc.*, 418 U.S. 323, 350 (1974); *Rosenbloom v. Metromedia, Inc.*, 403 U.S. 29, 82 (1971) (Marshall, J., dissenting). Yet, unlike a fine in a criminal case, there is no statutorily-defined maximum for punitive damages in most states.

Until recent years, the failure of state legislatures to set maximum limits for punitive damages and to establish meaningful criteria for juries to use in determining punitive awards received little attention because "punitive damage awards occurred infrequently; their size, when they did occur, was relatively small; and, the cases in which they occurred involved, by and large, some of the most egregious forms of intentional torts." 2 Ghiardi & Kircher, *Punitive Damages Law and Practice* § 21.01 at 2 (1989). Now, however, all this has changed. A punitive monster is growing on the civil side, and it has reached enormous proportions.

II.

CALIFORNIA JURIES ROUTINELY RENDER LARGE PUNITIVE DAMAGE AWARDS.

Appendix A lists the punitive damage jury verdicts for \$100,000 or more rendered by California juries during the 14-year period from January 1, 1976, through December 31, 1989.¹ The following chart summarizes the verdicts in these cases:

¹ The source for the statistics is Jury Verdicts Weekly, Inc., *Jury Verdicts Weekly*, which compiles reports of jury verdicts in all California state and federal courts. *Jury Verdicts Weekly* does not purport to be a complete listing of every verdict in California (it depends on trial attorneys to submit the results of their cases), but it is recognized as an authoritative source of information concerning jury verdicts. The RAND Corporation used *Jury Verdicts Weekly* as the data base for a study of California punitive damage jury verdicts during the period 1980-1984.

(Continued on following page)

Year	No. \$100,000+ Jury Verdicts	Sum of Verdicts
1976	7	\$ 7,525,138
1977	9	\$ 13,656,000
1978	14	\$137,193,000 ²
1979	12	\$ 35,415,815
1980	20	\$ 35,116,500
1981	29	\$ 27,375,710
1982	32	\$ 54,861,096
1983	39	\$109,405,254
1984	68	\$ 59,342,317
1985	77	\$363,100,739 ³
1986	61	\$105,894,292
1987	62	\$202,852,818
1988	29	\$280,427,988 ⁴
1989	48	\$ 80,993,939

(Continued from previous page)

Peterson, Sarma & Shanley, *Punitive Damages: Empirical Findings 4* (RAND Corp., Institute for Civil Justice, 1987) [hereinafter cited as RAND study].

Whenever a jury rendered separate punitive awards against multiple defendants in a single case, we added the awards together.

² One verdict, *Grimshaw v. Ford Motor Co.*, accounts for \$125,000,000 of the total. Without *Grimshaw*, the total is \$12,193,000.

³ One verdict, *Micro/Vest v. Computerland*, accounts for \$125,000,000 of the total. Without *Micro/Vest*, the total is \$238,100,739.

⁴ One verdict, *Baroway v. KMG Main Hurdman*, accounts for \$147,000,000 of the total. Without *Baroway*, the total is \$133,427,988.

(Continued on following page)

These 507 jury verdicts total over \$1.5 billion (\$1,513,160,606)! During this 14-year period in California there were 179 *punitive damage jury verdicts* of \$1 million or more, 54 of them \$5 million or more, and 30 of them \$10 million or more.

Figure 1 below depicts the number and sum of the verdicts for each year of our study.



(Continued from previous page)

Effective January 1, 1988, California's punitive damage statute was amended to require proof by clear and convincing evidence and to better define the circumstances under which punitive damages may be awarded. The amendment applied to all cases tried after its effective date. Cal. Civ. Code § 3294 (West Supp. 1990). It appears to have had an immediate impact on the number, but not the size, of punitive damage verdicts, though a year later, in 1989, the number of verdicts resurged.

Just the most recent 5 years of the 14-year period, 1985-1989, account for 55% of the verdicts (277 out of 507), 68% of the total amount awarded (\$1,033,269,776 out of \$1,513,160,606), 57% of the awards over \$1 million (102 out of 179), 69% of the awards over \$5 million (37 out of 54), and 70% of the awards over \$10 million (21 out of 30).

The RAND Corporation's 1987 study of punitive damages, the data base for which included California punitive damage jury verdicts through 1984,⁵ concluded: "The largest punitive damage awards have increased greatly in size, sharply increasing both the average award and the total dollars awarded." RAND study at ix. The awards depicted in our study for the years following the RAND study, from 1985 through 1989, show this ominous trend continuing.

III.

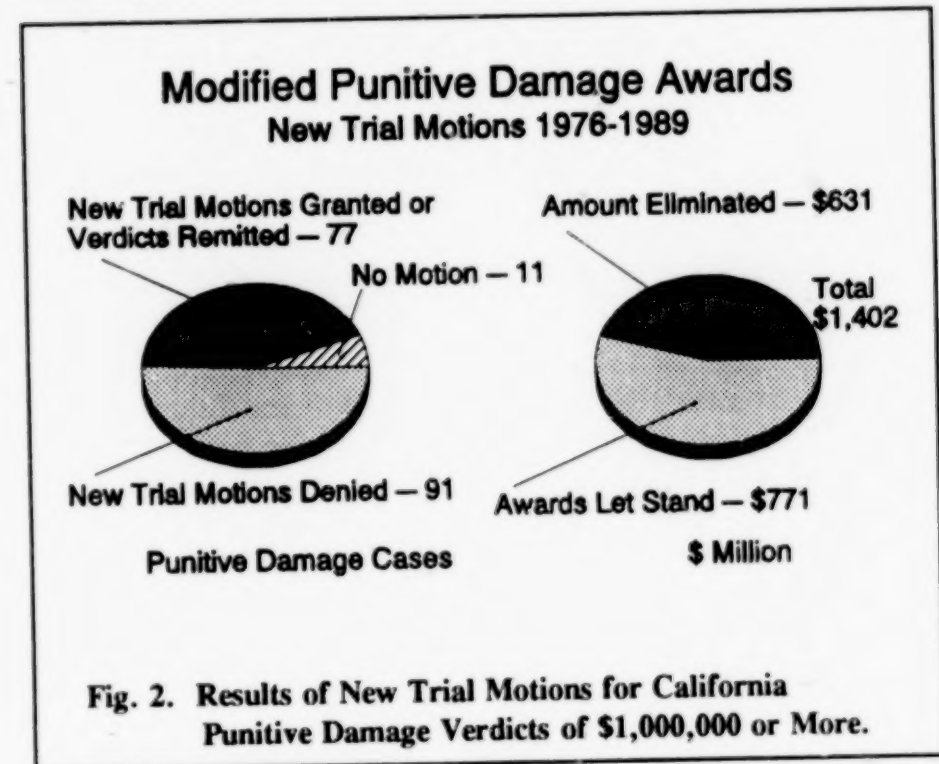
CALIFORNIA TRIAL JUDGES GRANT NEW TRIAL MOTIONS OR REMIT PUNITIVE DAMAGE VERDICTS IN A HIGH PERCENTAGE OF CASES.

The rulings of trial judges on new trial motions confirm that juries' punitive damage verdicts are too often excessive. Appendix B shows the results of the new trial motions in the 179 cases included in Appendix A where the jury's punitive damage verdict was \$1 million or

⁵ The data for the RAND study covered all civil jury trials in Cook County, Illinois, and San Francisco County, California, from 1960 to 1984, and all civil jury trials throughout California from 1980 to 1984. RAND study at v.

more.⁶ In 168 of the 179 cases the trial court ruled on a new trial motion. A new trial was granted or the punitive award was remitted in 77 cases, or 46% of the time. Of the \$1,402,016,994 total awarded by these 179 juries, \$631,233,486, or 45%, was eliminated by the trial judges.

Figure 2 below depicts the results of the new trial motions.



The mere fact that such a large percentage of punitive damages is remitted demonstrates current jury procedures are seriously and fundamentally flawed.

⁶ These 179 cases with punitive damage verdicts of \$1 million or more account for \$1,402,016,994, or 93%, of the \$1,513,160,606 awarded by the juries in the 507 cases included in our study.

What accounts for California's punitive damage mess?

IV.

LIKE MOST STATES, CALIFORNIA HAS NO MEANINGFUL STANDARDS TO GUIDE A JURY IN DETERMINING THE AMOUNT OF A PUNITIVE AWARD.

A. California Juries Are Told To Consider Three Factors: (1) Reprehensibility Of The Defendant's Conduct, (2) The Defendant's Financial Condition, And (3) The Actual Damage Suffered By The Plaintiff.

California Civil Code section 3294, the statutory authorization⁶ for punitive damages, provides in pertinent part:

"(a) In an action for the breach of an obligation not arising from contract, where it is proven by clear and convincing evidence that the defendant has been guilty of oppression, fraud, or malice, the plaintiff, in addition to the actual damages, may recover damages for the sake of example and by way of punishing the defendant."

The statute goes on to define "malice," "oppression," and "fraud," and to define the circumstances under which an employer may be found liable for punitive damages based on the acts of an employee. What the statute does *not* do is place any limit whatever on the *amount* of a punitive damage award, nor does it specify any standards to govern a jury's determination of the amount of a punitive award.

The California Supreme Court has held that a punitive award is excessive if " 'the entire record, when viewed most favorably to the judgment, indicates [the award was] rendered as the result of passion and prejudice.' " *Neal v. Farmers Ins. Exch.*, 21 Cal.3d 910, 927, 148 Cal.Rptr. 389, 582 P.2d 980 (1978). The three factors the California Supreme Court says are relevant to this determination, *id.* at 928, have been turned into a jury instruction, California Book of Approved Jury Instructions (BAJI) number 14.71 (1989 Revision). This instruction provides in pertinent part:

"The law provides *no fixed standards* as to the amount of such punitive damages, but leaves the amount to the jury's sound discretion, exercised without passion or prejudice.

"In arriving at any award of punitive damages, you are to consider the following:

"(1) The *reprehensibility* of the conduct of the defendant.

"(2) The amount of punitive damages which will have a deterrent effect on the defendant in the light of *defendant's financial condition*.

"[(3) That the punitive damages must bear a reasonable relation to the injury, harm, or *damage actually suffered by the plaintiff*.]"⁷ (Emphasis added.)

Given the nature of the three factors a jury is told to consider, it is hardly surprising that so many punitive

⁷ The "use note" to this jury instruction explains: "Paragraph number 3 is in brackets and must be given if requested by the defendant. *Gagnon v. Continental Casualty Co.*, 1989, 211 Cal.App.3d 1598, 1605, 260 Cal.Rptr. 305, 309."

damage verdicts have to be remitted on the ground of excessiveness.

B. "Reprehensibility" Provides No Meaningful Guidance To A Jury.

The "reprehensibility" factor tells the jury little of any use. See *Giaccio v. Pennsylvania*, 382 U.S. 399, 404 (1966), where this Court referred to the term "reprehensible conduct" as "loose and unlimiting." The jury already has considered the nature of the defendant's conduct in deciding whether to award punitive damages in the first place. Telling the jury to again consider "[t]he reprehensibility of the conduct of the defendant" in deciding *how much* to award adds little to the equation. This factor is entirely subjective and does not serve to rein in the jury's discretion.

C. The Defendant's Financial Condition Provides No Guidance In Those Cases Where A Well-Defined Standard Is Needed The Most.

The "financial condition of the defendant" factor is somewhat anomalous in that California's appellate courts do not agree on whether the plaintiff is even required to present evidence of the defendant's wealth in order to sustain a punitive award. Compare *Fenlon v. Brock*, 216 Cal.App.3d 1174, 1178-83, 265 Cal.Rptr. 324 (1989) with *Dumas v. Stocker*, 213 Cal.App.3d 1262, 1267-69, 262 Cal.Rptr. 311 (1989). When evidence of wealth is presented, it may provide some guidance in setting an

amount sufficient to punish and deter when the defendant is an individual of normal means or a small business. But it becomes less and less meaningful as wealth increases, to the point of providing no guidance at all when a multi-million- or multi-billion-dollar corporation is involved.

Consider the following hypothetical: an individual with net worth of \$100,000 and an insurance company with net worth of \$1 billion engage in identical tortious conduct causing identical injuries. A jury determines that the imposition of \$10,000 in punitive damages against the individual defendant (10 percent of net worth) is sufficient punishment to have the prescribed deterrent effect. On its face, this may not appear to be unreasonable. See, e.g., *Goshgarian v. George*, 161 Cal.App.3d 1214, 1228, 208 Cal.Rptr. 321 (1984) ("Where the other factors do not militate in favor of reversal, the mere fact that the punitive damages awarded equaled about 10 percent of the tortfeasor's net worth should not itself call for reversal of the damages as excessive."). But does this mean the jury should impose punitive damages of \$100 million against the insurance company (10 percent of its net worth, but 10,000 times more than the fine imposed on the individual) in order to achieve the same deterrent effect? Certainly not. But the jury is not told how the insurance company should be treated differently from the individual defendant. The same, imprecise "financial condition of the defendant" factor is used in every case, even though its application has to vary dramatically depending on the wealth of the particular defendant involved. The vagueness of this factor where large businesses are concerned means it is of little or no use in precisely those cases

where a well-defined standard is needed the most to avoid excessive awards. A look at the names of the defendants in the 507 cases included in our study of punitive damage jury verdicts reveals that most of the verdicts were against businesses.

D. A Defendant's Financial Condition Is An Irrelevant, If Not Unconstitutional, Consideration In Determining The Amount Of A Penalty.

The use of wealth as a criterion for determining the amount of a punitive award assumes that a larger penalty for wealthy defendants is necessary for effective deterrence. But the defendant's wealth is not a factor in the calculus of deterrence. Deterrence theory is based on the plausible assumption that an actor weights the expected costs and benefits of future conduct. The measure of deterrence is the *benefits* to be derived from the conduct – the costs should be set high enough to significantly exceed those benefits. The actor's pre-existing wealth, or lack of it, is irrelevant.

In any event, wealth should not be a constitutionally-permissible criterion for determining punishment. In *Williams v. Illinois*, 399 U.S. 235 (1970), this Court invalidated on equal protection grounds the practice of imprisonment beyond the statutory maximum jail sentence if the defendant is financially unable to pay a fine. Logically, the converse situation, where a penalty is increased if the defendant is wealthy, should be equally repugnant to constitutional guarantees. Punishment should be based on what the defendant did, not on who the defendant is.

The impermissible effect of allowing a jury to consider a defendant's wealth is plain: "[I]t cannot be ignored that punitive damages may be employed to punish unpopular defendants." *International Bhd. of Elec. Workers v. Foust*, 442 U.S. at 50-51 n.14. "It is a good guess that rich men do not fare well before juries, and the more emphasis placed on their riches, the less well they fare." Morris, *Punitive Damages in Tort Cases*, 44 Harv. L. Rev. 1173, 1191 (1931). "[T]he biases and inclinations toward wealth redistribution exhibited by triers of fact are permitted to influence decisions on punitive damage issues." Ellis, *Fairness and Efficiency in the Law of Punitive Damages*, 56 S. Cal. L. Rev. 1, 53 (1982).

E. Consideration Of The Actual Damages Suffered By The Plaintiff Has Not Proven To Be A Meaningful Criterion.

The criterion that the punitive award must bear a "reasonable relation to the injury, harm, or damage actually suffered by the plaintiff" has proven to be meaningless. California law does not even require that there be an award of actual damages in order to sustain a punitive damage award. E.g., *Gagnon v. Continental Casualty Co.*, 211 Cal.App.3d at 1603 n.5; *Carr v. Progressive Casualty Ins. Co.*, 152 Cal.App.3d 881, 892, 199 Cal.Rptr. 835 (1984). Where actual damages are awarded, the jury has no way of knowing what a "reasonable relation" is in any given case. In other contexts, the use of "reasonable" as a measure is related to the common experience of the jury, e.g., the "reasonable person" standard for negligence. In this setting, however, there is nothing in the common experience of a juror which sheds light on whether one

amount of punitive damages is more reasonably related to actual damages than another. The jury is left to speculate.

Moreover, to say a punitive award must bear a "reasonable relation" to actual damages on the heels of having said the jury should consider the defendant's wealth creates a direct conflict. "[O]ne rule requires the proportioning of the punitive award to the compensation granted, while the other requires the proportioning of the award to the defendant's ability to pay it." Dobbs, *Handbook on the Law of Remedies* 210-11 (1973).

The lack of any meaningful guidance from this factor is borne out by the inconsistent manner in which California appellate courts use it to determine whether an award of punitive damages is excessive. In almost every appellate opinion discussing this factor it is emphasized that there is "no fixed ratio" between the award of punitive and compensatory damages. *E.g.*, *Liodas v. Sahadi*, 19 Cal.3d 278, 284, 137 Cal.Rptr. 635, 562 P.2d 316 (1977); *Downey Savings & Loan Assn. v. Ohio Casualty Ins. Co.*, 189 Cal.App.3d 1072, 1097, 234 Cal.Rptr. 835 (1987), cert. denied, 486 U.S. 1036 (1988); *Betts v. Allstate Ins. Co.*, 154 Cal.App.3d 688, 711-12, 201 Cal.Rptr. 528 (1984). In other words, if the appellate court believes the jury's punitive award is warranted by the facts it will affirm, and if not it will reverse, regardless of the ratio of punitive to compensatory damages. *See* Prosser & Keeton, *The Law of Torts* 14-15 (5th ed. 1984); Dobbs, *supra*, at 211; Ellis, *supra*, at 60. We will spare this Court a recitation of the ratio of compensatory to punitive damages in each of the numerous California appellate decisions affirming or reversing punitive awards. Suffice it to say we can find a case

affirming and a case reversing for just about every ratio category. *See, e.g.*, *Gagnon v. Continental Casualty Co.*, 211 Cal.App.3d at 1604 ("[A] ratio of 32.7 to 1 has been found unreasonable . . . while ratios of 190.5 to 1 . . . and even 2,000 to 1 . . . have been found reasonable."); *Devlin v. Kearny Mesa AMC/Jeep/Renault, Inc.*, 155 Cal.App.3d 381, 390, 393-96, 202 Cal.Rptr. 204 (1984); *Werschull v. United California Bank*, 85 Cal.App.3d 981, 149 Cal.Rptr. 829 (1978) (affirming \$550,000 punitive award where compensatory award was \$1).

Absent a fixed ratio, the "reasonable relation" factor is purely subjective and of no use to a jury in determining what is proportionate in any given case. It adds no precision whatever to the process of determining the appropriate amount of a punitive damage award. *See* Dobbs, *supra*, at 211 ("Since no precise ratio is ever required, the rule is really not a rule at all, but only a general idea. It encourages an inflexible posture without adding any commensurate certainty in the law. It probably doesn't do much harm, but it is difficult to see that it does any good at all.").

V.

CALIFORNIA'S UNFORTUNATE EXPERIENCE POINTS THE WAY FOR THE REST OF THE NATION.

It is undeniable that California's "no fixed standards" standard in BAJI No. 14.71, with its three meaningless factors, permits a jury to determine the amount of a punitive award without essential guidance. This lack of

guidance renders punitive damage verdicts wholly unpredictable and explains the incredible amounts California juries are awarding.

The three factors California juries are told to consider are used in other states, including Alabama. See *Hammond v. Gadsden*, 493 So.2d 1374 (Ala. 1986). However, in Alabama the jury is instructed only on the "reprehensibility" factor.⁸ The "financial condition" and "reasonable relation to actual damages" factors, along with several others, are for the trial judge to use in reviewing the jury's damage verdict for excessiveness. It strikes us as rather strange that the Alabama Supreme Court would recognize a need to rein in jury discretion concerning punitive damages, but would seek to do so only by means of new trial motions and appellate review rather than by an appropriate jury instruction in the first instance. Whatever happened to the defendant's right to trial *by jury* where punitive damages are concerned? In any event, California's experience demonstrates that instructing the jury on factors such as "financial condition" and "reasonable relation to actual damages" does no good anyway. The factors are so subjective that they do not significantly improve upon Alabama's simple instruction, which effectively tells the jury to pick any number it likes.

One is hard pressed to devise a penalty more vague and destructive than California's, Alabama's, and most

⁸ In *Haslip* the jury was told: "Should you award punitive damages, in fixing the amount, you must take into consideration the character and degree of the wrong as shown by the evidence and the necessity of preventing similar wrongs." RT 898.

states' punitive damage laws. We are confident this Court would not countenance laws imposing limitless fines. Neither should it countenance limitless punitive damage laws under which juries are rendering such incredible verdicts.

VI.

THE TIME HAS COME TO INVOKE DUE PROCESS TO FORCE STATE LEGISLATURES TO DO THEIR JOB.

At the very least, due process should require state legislatures to set the outer limit for punitive damages. A certain degree of risk of arbitrary and discriminatory enforcement is inherent in every penalty. It is the legislature's job to make the basic policy decision where that risk should end by setting a maximum. See *Grayned v. City of Rockford*, 408 U.S. 104, 108-09 (1972) ("A vague law impermissibly delegates basic policy matters to . . . judges . . . and juries for resolution on an ad hoc and subjective basis, with the attendant dangers of arbitrary and discriminatory application."). Most state legislatures have not done their job where punitive damages are concerned. Until they do, until the maximum amount of a punitive damage award is delimited by statute, and until specific criteria for determining the amount of a punitive award within the statutory limit are prescribed, punitive damages should be deemed *per se* a violation of due process of law.

CONCLUSION

The judgment of the Alabama Supreme Court should be reversed with direction to strike the punitive damage award.

Dated: June 1, 1990.

Respectfully submitted,

FRED J. HIESTAND

ELLIS J. HORVITZ

S. THOMAS TODD

HORVITZ & LEVY

*Counsel for Amicus Curiae
Association for California
Tort Reform*

APPENDIX A

1976

Punitive Damage Jury Verdicts
\$100,000 And Over

<u>Amount^a</u>	<u>Case Name</u>	Jury Verdicts Weekly <u>Voi./No./Pg.</u>
\$5,300,000	Austero v. Washington National Insurance Co.	20/30/38
935,000	Eichar v. Surety Life Insurance Co.	20/15/35
511,138	Runnels v. Astra Pharmaceut	20/32/12
379,000	Fleckner-Palmtag Realty v. Kaufman	21/3/9
175,000	Townhouse Gardens v. Reliance Capital Corp.	20/19/32
125,000	U.S. Cablevision v. Microwave Engineering, Inc.	20/14/21
100,000	Richardson v. Handy Pantry Food Stores	20/47/18

A2

1977

Punitive Damage Jury Verdicts
\$100,000 And Over

<u>Amount</u>	<u>Case Name</u>	<u>Jury Verdicts Weekly Vol./No./Pg.</u>
\$10,000,000	Rosener v. Sears, Roebuck & Co.	21/5/2
2,000,000	Von Brimer v. Whirlpool Corp.	22/4/11
336,000	Austero v. National Casualty of Detroit	21/10/38
275,000	Sinclair v. Flo-Kem Products	21/31/19
250,000	Anderson v. Weisman	21/15/15
250,000	Lemer v. Boise Cascade	21/19/1
220,000	Ginsburg v. Ginsburg	21/39/6
175,000	Parks v. Marine Office of America	21/21/37
150,000	Miller v. Elite Insurance Co.	21/16/6

A3

1978

Punitive Damage Jury Verdicts
\$100,000 And Over

<u>Amount</u>	<u>Case Name</u>	<u>Jury Verdicts Weekly Vol./No./Pg.</u>
\$125,000,000	Grimshaw v. Ford Motor Co.	22/14/26
4,000,000	Hasson v. Ford Motor Co.	22/45/23
1,750,000	Pawlaczyk v. American Hospital Supply Co.	22/36/18
1,500,000	Mardor v. Richards Manufacturing Co.	22/29/19
1,075,000	Jones v. Bank of America	22/52/4
1,000,000	Bialak v. Montgomery Ward Co.	22/51/14
663,000	Veterinary Pathology v. Revlon, Inc.	22/43/24
500,000	Davis v. Environmental Power Ltd.	22/31/22
500,000	Dickinson v. Vorelco of Cal., Inc.	22/24/4
500,000	J. Blazona Constr., Inc. v. Evert	22/48/6
250,000	Stranlund v. Safeco Title Insurance Co.	22/46/21
165,000	Davis v. Blue Cross of Northern California, Inc.	22/42/3
150,000	Chevalier v. Dubin	22/26/20
140,000	Aikey v. Vletas	22/16/20

A4

1979

Punitive Damage Jury Verdicts
\$100,000 And Over

<u>Amount</u>	<u>Case Name</u>	<u>Jury Verdicts Weekly Vol./No./Pg.</u>
\$17,750,003	Harmsen v. Smith	24/5/23
11,058,810	Seaman's Direct Buying Service v. Standard Oil Co. of Cal.	23/51/1
1,500,001	Kanins v. American Hawaiian Steamship Co.	24/2/29
1,310,000	Helderman v. Int'l Brotherh'd of Elec. Wrkrs.	23/17/3
1,000,000	MPB Associates v. United California Bank	23/46/6
900,000	Parnell v. Continental Casualty Co.	23/40/7
872,001	Ingram v. Commercial Bankers	23/32/22
350,000	Smith v. La Vista Cemetery Assn.	24/5/22
315,000	Gilmore v. International Finance and Trade Development Corp.	23/36/27
150,000	Alhino v. Western Title Guaranty Co.	23/8/1
110,000	Fitzgerald v. Advanced Health Systems, Inc.	23/38/28
100,000	Laurens v. Republic Nat'l Life Insurance Co.	23/39/17

A5

1980

Punitive Damage Jury Verdicts
\$100,000 And Over

<u>Amount</u>	<u>Case Name</u>	<u>Jury Verdicts Weekly Vol./No./Pg.</u>
\$9,900,000	Union Bank v. Fireman's Fund Ins. Co.	24/25/27
6,510,000	Golf West of Kentucky, Inc. v. Life Investors, Inc.	24/33/22
4,500,000	Norman v. Colonial Penn Franklin Life Ins. Co.	24/52/19
3,000,000	Sanders Farms, Inc. v. Griffin	24/43/18
2,200,000	C.C. Davis & Co. v Alioto	24/28/2
1,500,000	Wayte v. Rollins International, Inc.	25/8/12
1,350,000	Uhlmann Offices, Inc. v. City National Bank	24/51/13
1,000,000	Glover v. Allstate Insurance Co.	25/2/19
1,000,000	Pistorius v. Prudential Insurance Co.	24/17/3
750,000	Noronha v. Blue Cross of No. California	24/20/6
560,000	Rosen v. Sneed	24/48/16
525,000	Diaz v. Tribune Publishing Co.	24/8/3
400,000	Cohen v. Fitzsimmons	24/17/4
350,500	Jones v. Allstate Insurance Co.	24/26/40
346,000	Ambrose v. Scott	24/48/3
300,000	Oberg v. A-S Development, Inc.	24/30/12
275,000	Price v. Cavanaugh	25/3/17

A6

<u>Amount</u>	<u>Case Name</u>	<u>Jury Verdicts Weekly Vol./No./Pg.</u>
250,000	M.V. Golden Pacific v. San Diego Marine Constr.	24/12/25
200,000	Austero v. Washington National Insurance Co.	24/21/24
200,000	Chodos v. Insurance Co. of North America	24/26/30

A7

1981

Punitive Damage Jury Verdicts
\$100,000 And Over

<u>Amount</u>	<u>Case Name</u>	<u>Jury Verdicts Weekly Vol./No./Pg.</u>
\$3,117,946	Spieker v. Senator Hotel Associates	26/5/8
3,000,000	Betts v. Allstate Insurance Co.	25/48/17
2,500,000	Moore v. American United Life Insurance Co.	26/15/13
2,073,559	The Glovatorium, Inc. v. Nat'l Cash Register	25/25/4
2,000,000	Aceto v. Certified Life Insurance Co. of Cal.	25/27/10
2,000,000	California Shoppers, Inc. v. Royal Globe Insurance Co.	25/38/15
2,000,000	Smithers v. Metro- Goldwyn-Mayer, Inc.	25/46/24
1,500,000	Hinton v. Venture Out in America, Inc.	25/13/8
1,500,000	Marino v. Synanon Church	25/43/7
1,300,000	Burnett v. National Enquirer, Inc.	25/25/23
750,000	McKibben v. Connecticut Indemnity Co.	26/9/9
750,000	Ziglar v. Noble	25/52/19
700,000	Roland v. Al Sabah	25/48/2
584,045	Baker v. Kemper Insurance Co.	25/10/34
558,160	Paulfrey v. Blue Chip Stamps Co.	25/46/31

A8

Amount	Case Name	Jury Verdicts Weekly
		Vol./No./Pg.
500,000	Bananejad v. Habish Int'l, Inc.	25/48/5
500,000	Mosby v. Duffin	25/28/6
260,000	Palmer v. Smith's Food King Market	26/5/16
250,000	Hapip v. Texas Renaissance Festival, Inc.	25/26/5
200,000	Ray v. Bank of America	26/5/4
200,000	Rulon-Miller v. IBM Corp.	26/11/1
200,000	Schlager v. Homel	25/29/19
200,000	Songer v. Bordan	25/39/3
166,000	Kennedy v. Pier 1 Imports	26/2/6
150,000	Insurors of California v. DeMarco, Barger, Beral & Pierno	25/21/17
116,000	Fleming v. Safeco Insurance Co. of America	26/5/19
100,000	Badagliacia v. Millennium	25/24/12
100,000	Waite V. Wasserman	25/38/7
100,000	Young v. Personal Service Insurance Co.	25/30/16

A9

1982

Punitive Damage Jury Verdicts
\$100,000 And Over

Amount	Case Name	Jury Verdicts Weekly
		Vol./No./Pg.
\$17,500,000	The P.K.L. Companies v. The Eaton Corp.	26/28/23
10,000,000	West v. Johnson & Johnson Products, Inc.	27/13/8
4,500,000	Norton v. Kaiser Steel Corp.	26/51/30
3,000,000	Pitzer v. Security Pacific National Bank	26/18/27
2,500,000	Pollard v. National Life & Accident Co.	26/50/26
2,250,000	Beltz Travel Service, Inc. v. Trans World Airlines	26/15/4
2,000,000	Boles v. Travelers Indemnity Co.	27/17/5
1,500,000	Travelers Insurance Co. v. Leshner	26/36/2
1,125,000	Toshiba Semi Conductor USA v. Consortium	26/24/12
1,100,000	Garvey v. State Farm Fire and Casualty Co.	26/17/8
1,000,000	Bailey v. U-Haul International, Inc.	26/47/3
1,000,000	Klinger v. Plastic & Rubber Products	26/49/21
1,000,000	Thomsen v. Volkswagen of America	26/50/1
750,000	Gonzales v. Underwriters at Lloyds, London	26/37/12
606,096	Supreme Industries, Inc. v. Centurion Boats, Inc.	26/33/18

A10

<u>Amount</u>	<u>Case Name</u>	<u>Jury Verdicts Weekly Vol./No./Pg.</u>
600,000	Lloyd v. Fila Sports, Inc.	26/51/4
600,000	Moss v. Equitable Life Assurance Society	26/43/11
600,000	Shannon v. Jackes-Evans Manufacturing Co.	27/9/10
500,000	Scholtz v. Shearson, Hayden, Stone, Inc.	27/1/3
500,000	Woodland Production Credit Assn. v. Nicholas	26/49/15
455,000	Geller v. 227 East Anapamu St., Ltd.	27/8/37
350,000	Pellegrini v. Aycock	26/39/5
350,000	Stepp v. Great Western Savings & Loan Assn.	26/48/6
250,000	Smith v. Hollywood Collateral Loan Assn.	26/53/4
125,000	Cook v. Sears, Roebuck and Co.	27/14/37
100,000	Granich v. Shapray	27/7/20
100,000	Hill v. National Auto & Casualty Insurance Co.	27/2/22
100,000	Kennedy v. Building Services Local 87	26/20/1
100,000	Lederman v. Pacific Mutual	27/2/28
100,000	Meyer v. Byron Jackson, Inc.	26/39/29
100,000	Newman v. Roston	26/50/39
100,000	Rhea v. RCA Corp.	26/28/18

A11

1983

Punitive Damage Jury Verdicts
\$100,000 And Over

<u>Amount</u>	<u>Case Name</u>	<u>Jury Verdicts Weekly Vol./No./Pg.</u>
\$40,025,000	Fellows v. Allstate Insurance Co.	28/23/19
15,000,000	The P.K.L. Companies v. The Eaton Corp.	27/52/21
13,054,479	Berk v. National Union Fire Insurance Co.	27/44/16
8,456,250	Greenberg v. Coldwell Banker Co.	28/20/25
8,000,000	Frazier v. Metropolitan Life Insurance Co.	27/24/21
5,000,000	Sprague v. Equifax, Inc.	27/17/31
2,681,000	Clark v. Wits, Inc.	27/48/16
2,035,000	S.R.H. Fabrics, Inc. v. Formoco Int'l Corp.	27/36/3
2,000,000	Shepler v. Anami Ashram, Inc.	27/18/9
1,800,000	Pitts v. Fibreboard Corp.	28/8/1
1,500,000	Young v. Great Western United, Inc.	27/42/26
1,000,000	Creative Wood Design v. Aetna Casualty and Surety Insurance Co.	28/4/8
1,000,000	Lembo v. Nardoni	28/26/20
900,000	Mancini v. Royal Indemnity Co.	27/21/1
750,000	Glass v. Philip Roxanne, Inc.	28/26/12
750,000	Ladd v. Superfilm, Ltd.	28/26/24
500,000	Four 425 Shatto Bldg. Co. v. Air Conditioning Co., Inc.	27/35/20

A12

<u>Amount</u>	<u>Case Name</u>	<u>Jury Verdicts Weekly Vol./No./Pg.</u>
500,000	Nakahara v. Ace American, Inc.	27/30/7
480,000	Baysinger v. Pacific Mutual Life Insurance Co.	28/19/17
400,000	Sullivan v. Kaiser Foundation Health Plan, Inc.	28/17/25
360,000	Wilson v. Meyer	28/19/34
339,525	Kan v. American District Telegraph Co.	27/42/2
300,000	Adams v. Esparza	27/49/5
250,000	Collins v. Berner	28/15/7
240,000	Robinson v. Firestone Tire & Rubber Co.	27/33/21
225,000	Dime's Group v. Travenol Laboratories, Inc.	28/12/10
220,000	Hobbs v. Batemen, Eichler, Hill Richards	27/24/24
200,000	Bravo v. The Clubhouse	27/44/25
200,000	Shirkhani v. Starcrest Products of California	27/40/14
200,000	Wright v. Randles	27/32/6
150,000	Frankenberger v. Int'l Real Estate Network	28/26/22
150,000	Mammoth Vista Owners Assn. v. General Ins. Co.	27/51/15
150,000	Silverado Title Co. v. Sorensen	28/13/15
139,000	Kelly v. General Telephone Co.	28/25/20

A13

<u>Amount</u>	<u>Case Name</u>	<u>Jury Verdicts Weekly Vol./No./Pg.</u>
125,000	Northrup v. Fink	28/14/7
125,000	Schroeder v. Safeco Insurance Co.	28/7/12
100,000	Americana Air Cargo v. Sendrex Cargo	28/6/23
100,000	Calloway v. Travelers Insurance Co.	27/29/13
100,000	Schwab v. Smith	28/6/14

A14

1984

Punitive Damage Jury Verdicts
\$100,000 And Over

<u>Amount</u>	<u>Case Name</u>	<u>Jury Verdicts Weekly Vol./No./Pg.</u>
\$5,000,000	Bertolani v. Equitable Life Assurance Society	28/29/18
5,000,000	Downey Savings & Loan Assn. v. Ohio Casualty Ins. Co.	28/28/16
4,300,000	Dustman v. AMC Jeep Corp.	28/41/13
4,000,000	Haughton v. Unigard Mutual Insurance Co.	28/39/24
4,000,000	Royster v. Mission Insurance Co.	28/35/11
3,500,000	Mattie v. Picker Corp.	28/37/9
3,000,000	Litwak v. Fed Mart Corp.	28/44/71
2,660,000	Seeley v. Seymour	28/20/7
2,000,000	Ballou v. Traweek Investment Co., Inc.	28/52/25
2,000,000	Taylor v. State Farm Fire & Casualty Ins. Co.	28/39/22
2,000,000	Tushinsky v. Tushinsky	28/51/21
1,584,000	Phillips v. Travelers Financial Services, Inc.	29/18/16
1,500,000	Davis v. Continental Insurance Co.	28/39/13
1,500,000	Stern v. Dow Corning Corp.	29/17/18
1,500,000	Umann v. Mor-Ben Insurance Markets Corp.	29/16/3
1,150,000	Farrell v. Police & Fireman Insurance Assn.	28/47/12

A15

Jury Verdicts
Weekly
Vol./No./Pg.

<u>Amount</u>	<u>Case Name</u>	<u>Jury Verdicts Weekly Vol./No./Pg.</u>
1,007,000	Satalich v. State Farm Mutual Auto Insurance Co.	28/37/29
1,000,000	McNair v. Worldwide Church of God	29/8/22
750,000	Darblay v. Western Medical Enterprises, Inc.	29/3/10
732,083	Spangler v. Great Southwest Fire Insurance Co.	29/20/31
680,000	Dunkley v. Vermeer Mfg. Co.	28/38/1
650,000	Doe v. Elashi	29/18/37
525,000	Fisher v. 20th Century Insurance Co.	28/49/51
500,000	Ackerman v. K-Mart Discount Stores, Inc.	29/4/24
500,000	Foreman v. United Insurance Co. of America	29/9/11
500,000	Total Experience Records, Inc. v. Lang	29/5/18
442,500	Greenfield v. Spectrum Investment Corp.	28/30/25
400,000	Coastside Publishers and Printers v. Half Moon Bay Review, Inc.	28/16/2
400,000	Jones v. Montgomery Ward	28/34/20
370,000	Weaver v. Grodins of California, Inc.	28/45/5
300,000	Shook v International Dairy Queen, Inc.	29/16/21

A16

<u>Amount</u>	<u>Case Name</u>	<u>Jury Verdicts Weekly Vol./No./Pg.</u>
294,000	Comfort v. Farasa	29/14/11
292,210	Barbara Colton Interiors v. Joesoef	28/50/11
288,750	Waite v. Smith, Klieman & St. Francis Hosp.	29/16/31
276,000	Smith v. J.C. Penney, Inc.	29/18/21
250,000	Hanes v. Davis	28/21/13
244,000	San Jose Cash Register v. Tokyo Electronics Corp.	29/15/8
200,000	Kauric v. Hodgson	28/49/67
200,000	Velzy Engineering & Machine, Inc. v. Western Industrial Corp.	28/51/21
200,000	Vitali v. Bartell	28/34/22
200,000	Wells v. Raymark Industries, Inc.	29/9/6
189,272	United Western Insurance Marketing v. Olken	28/33/16
175,000	Boozer v. All-West Design, Inc.	28/15/12
175,000	Gigliotti v. Collins	28/41/11
175,000	Knott v. Boutin	28/47/11
175,000	Putz v. Industrial Indemnity Co.	29/11/15
160,000	Pusateri v. E.F. Hutton & Co., Inc.	28/48/11
150,000	Agarwal v. Bechtel Corp.	28/19/10
150,000	Smyth v. Herschensohn	29/7/25
140,000	Adams v. California Land Title Co.	28/31/18

A17

<u>Amount</u>	<u>Case Name</u>	<u>Jury Verdicts Weekly Vol./No./Pg.</u>
134,000	Godfrey v. West Coast Folk Clubs, Inc.	29/20/32
125,000	Greenup v. Bankers United Life Assurance Co.	28/44/29
125,000	Sanders v. Airport Park Hotel	28/38/32
125,000	Stewart v. Cal-Farm Insurance Co.	29/7/19
120,000	Allan v. Cal-Farm Insurance Co.	28/33/13
114,000	Nelson v. Arcuri	28/40/9
112,500	Welch v. Marx	28/49/61
102,000	Friedman v. Spataro	29/8/5
100,002	Tassey v. Madera Warehouse Co., Inc.	28/33/11
100,000	Abel v. Abel	28/23/29
100,000	Basque French Bakery v. Toscana Baking Co.	28/39/14
100,000	Coleman & Christianson, Inc. v. Gold Depository and Loan Co.	28/23/2
100,000	Davies v. Parker	28/36/2
100,000	Frazier v. City of Alameda	28/30/1
100,000	Multiplex Insurance Agency, Inc. v. California Life Insurance Co.	29/7/1
100,000	Oranje v. Bank of America	28/22/14

A18

<u>Amount</u>	<u>Case Name</u>	<u>Jury Verdicts Weekly Vol./No./Pg.</u>
100,000	Wilson v. Midland National Life Insurance Co.	28/29/22
100,000	Wright v. Echandi	28/17/18

A19

1985

Punitive Damage Jury Verdicts
\$100,000 And Over

<u>Amount</u>	<u>Case Name</u>	<u>Jury Verdicts Weekly Vol./No./Pg.</u>
\$125,000,000	Micro/Vest v. Computerland	29/40/1
46,500,000	Haun v. NEC Electronics	29/28/12
35,000,000	Tan Jay International, Ltd. v. Canadian Indemnity Co.	29/36/23
26,675,000	Kruse v. Bank of America	29/48/11
20,000,000	Rice Growers Assn. v. Transamerica Delaval, Inc.	29/25/7
10,000,000	McCullough v. S & H Insurance Co.	29/20/21
10,000,000	Stanton v. Continental Casualty Co.	30/8/18
8,500,000	Sykes v. Allstate Insurance Co.	30/7/21
7,163,340	Tidwell v. Republic Insurance Co.	30/5/13
7,000,000	Hronis v. Liberty Mutual Insurance Co.	29/32/25
6,243,750	Bryn Mar v. Browne	30/16/32
5,002,500	Eastridge v. Shell Oil Co.	29/19/38
3,500,000	Nielsen v. Atlantic Richfield Co.	30/5/28
3,115,000	Wright v. General Accident Fire & Life Assurance Corp.	30/12/21
3,000,000	Sharma v. Safeco Insurance Co.	29/37/20

A20

<u>Amount</u>	<u>Case Name</u>	<u>Jury Verdicts Weekly Vol./No./Pg.</u>
2,585,000	E & H Wholesale, Inc. v. Glaser Bros.	29/45/18
2,500,000	Fitzsimmons v. American Mutual Insurance Co.	29/37/5
2,500,000	Gagnon v. Continental Casualty Co.	29/41/10
2,453,294	TRW, Inc. v. GTE Products Corp.	29/35/9
2,350,000	Rookhuizen v. Aames Home Loan, Inc.	29/29/27
2,127,500	Crake v. Martin	30/14/36
2,120,000	Young v. Knudsen Corp.	29/18/32
2,002,500	Kreisher v. Mobil Oil	30/29/3
2,000,000	Garrett v. Montgomery Ward Co.	30/2/8
2,000,000	Lisec v. United Airlines	30/26/15
1,500,000	Emerson v. Hitachi Sales Corp.	30/39/32
1,500,000	Thomsen v. Pacific Telephone & Telegraph Co.	29/37/7
1,400,000	Fox v. Hobie Coast Catamaran	29/28/29
1,360,000	Bettencourt v. Fireman's Fund Insurance Co.	29/47/13
1,085,000	Orsatti v. Farmer	29/46/20
1,060,000	Feldman v. Fox and Carskadon	29/38/9
1,007,500	Bryant v. Merrill, Lynch, Pierce, Fenner & Smith, Inc.	29/21/71

A21

<u>Amount</u>	<u>Case Name</u>	<u>Jury Verdicts Weekly Vol./No./Pg.</u>
921,000	Cohen v. ViaCom Enterprises, Inc.	30/11/20
800,000	Backus v. Foremost Insurance Co.	30/7/25
800,000	Stegeman v. Sears, Roebuck and Co.	29/50/1
750,000	Carpet Svc. Systems v. Canadian Indemnity Co.	29/35/23
750,000	Sarno v. Sentry Insurance Co.	29/40/15
700,000	Hughes v. Blue Cross of California	29/27/6
662,500	Cistaro v. GC Services Corp.	29/29/19
606,000	First Real Estate v. Investment Mortgage International, Inc.	30/2/23
500,000	Chapman v. Tera Pharmaceuticals, Inc.	30/3/23
500,000	Pierovich v. Equitable Life Assurance Society	29/47/24
500,000	Russell v. Sentry Indemnity Co.	30/4/20
500,000	Simon v. Eureka Financial Corp.	30/5/6
500,000	Watkins v. Arklin	30/39/27
500,000	Thompson v. Boys Market	30/39/27
400,000	Hess v. Air France	29/23/30
400,000	Kramer, Wilson, Sauvegeau, Inc. v. Sauvegeau	29/38/26
400,000	Morales v. Insurance Co. of No. America	30/8/11

A22

<u>Amount</u>	<u>Case Name</u>	<u>Jury Verdicts Weekly Vol./No./Pg.</u>
400,000	Thomas v. Aubrey	29/48/23
300,000	Foor v. Reliance Insurance Co.	29/35/20
300,000	Ross-Leming v. Continental Insurance Co.	29/33/20
250,000	Ruby v. Industrial Indemnity Co.	29/21/29
241,058	Manhattan Life Insurance Co. v. Eldridge	29/24/22
200,297	Ringham v. A.T. Kearney, Inc.	29/48/15
200,000	Green v. Standard Brands Paint Co.	30/5/24
200,000	Nethery v. Unterthiner	29/42/29
200,000	Stephens v. Coldwell Banker	30/1/6
180,000	Kee v. Farmers Insurance Exchange	29/30/3
176,000	Hooper v. Fort Howard Paper Co.	29/34/19
175,000	Ambrose v. U.S. Steel Corp.	29/46/13
160,000	Moore v. Peterson	29/51/15
150,000	B & H Manu. Co. v. Williamson	30/35/13
150,000	Palmer v. Ted Stevens Honda, Inc.	29/51/7
135,000	Avila v. Commercial Union Insurance Co.	30/9/25
125,000	Wallis v. Beverly Fabrics	30/22/3
118,500	Winograd v. Mangel	29/22/28

A23

<u>Amount</u>	<u>Case Name</u>	<u>Jury Verdicts Weekly Vol./No./Pg.</u>
100,000	Aston v. Yamaha Motor Corp.	29/41/16
100,000	Brown v. Sierra Pacific Power Co.	29/36/31
100,000	Gorospe v. Rosselli	29/21/6
100,000	Jacques Interiors v. Petrak	29/27/24
100,000	Martin v. Farmers Insurance Group	29/34/2
100,000	Martin v. Sunrise Memorial Cemetery	29/26/1
100,000	Ochoa v. Financial Indemnity Co.	29/31/23
100,000	Schletewitz v. Industrial Indemnity Co.	29/36/15
100,000	Ganci v. Air Cal	30/17/31
100,000	Para v. Watsonville Canning Co.	30/17/7

A24

1986

Punitive Damage Jury Verdicts
\$100,000 And Over

<u>Amount</u>	<u>Case Name</u>	<u>Jury Verdicts Weekly Vol./No./Pg.</u>
\$20,000,000	Castlerock Properties v. Industrial Indem. Corp.	31/22/12
15,004,700	Bancroft v. Equifax Services, Inc.	30/50/21
14,000,000	April Enterprises, Inc. v. KTTV	30/39/19
9,000,000	Kilroy Industries v. United Pacific Ins. Co.	30/47/18
6,580,750	Owens v. Snap-On Tools	30/40/8
5,600,000	Blough v. State Farm	30/26/33
5,000,000	Leonardini v. Shell Oil Co.	30/40/14
4,000,000	Rodriguez v. Western Dyeing and Finishing Co.	30/39/24
3,000,000	Dean v. Chrysler Corp.	30/46/8
1,900,000	Corsini v. Joannou	31/2/18
1,600,000	Gallego v. Schaefer	30/34/20
1,500,000	Bailey v. Foodmaker, Inc.	30/43/1
1,319,000	Badii v. Imperial Bank	31/6/25
1,250,000	Radell v. Comora	30/40/25
1,000,000	Lorenzetti v. United States Fire Ins. Co.	31/9/15
850,000	Ozdiker v. Crocker National Bank	30/33/18
750,000	Dragich v. Estate of Guyer	30/35/21
750,000	Baldi Brothers Construction Co. v. W.F. Mims	30/18/32
750,000	Fletcher v. San Jose Mercury News	30/36/15

A25

Jury Verdicts
Weekly
Vol./No./Pg.

<u>Amount</u>	<u>Case Name</u>	
700,000	Flores v. Jacobs	30/37/29
675,000	Lee v. State Farm	30/25/21
604,752	Silverman v. Kessler	30/28/23
600,000	Merrill v. Allstate Ins. Co.	30/49/12
521,792	Bramwell v. Standard Register Co.	30/33/11
500,000	Chapman v. Wells Fargo Bank	31/13/24
500,000	Easterling v. Allstate Ins. Co.	31/5/20
475,000	Crusan v. Barrett Furniture Co.	30/34/16
450,000	Marietta Recovery Group, Inc. v. Anania	30/47/9
400,000	Kern v. I.C.C. Industries, Inc.	30/38/19
400,000	Industrial Clutch and Brake, Inc. v. Employers Casualty Co.	30/37/19
400,000	Slater v. Bostitch	31/9/26
350,000	Syverson v. Centennial Ins. Co.	30/52/7
325,000	Sutton v. Mid-Century Ins. Co.	30/43/2
300,000	Snelson v. Imperial Sav. & Loan Assn. of San Diego	30/43/15
300,000	Guerrero v. Figgie Int'l	30/41/28
278,500	Sofos v. Perkins	30/48/08
265,000	J.R. Norton Co. v. General Teamsters, etc. Union, Local 890	30/22/4

A26

<u>Amount</u>	<u>Case Name</u>	<u>Jury Verdicts Weekly Vol./No./Pg.</u>
256,798	Professional Reliable Nursing Service, Inc. v. Waring	30/37/14
250,000	Duffy v. Cavalier	30/23/8
250,000	Smith v. Brown Forman Distillers Corp.	30/30/28
233,000	Geller v. 155 Sansome Street	30/15/4
200,000	Liu v. Interinsurance Exchange	30/38/24
200,000	Nielson v. Fire Insurance Exchange	30/29/7
200,000	Forden v. Vogel	30/24/8
200,000	Wallis v. Farmers Group, Inc.	30/27/8
200,000	Hustede v. Eureka Federal Savings & Loan	30/42/2
200,000	Kinsler v. Deutsch	30/22/22
175,000	Lang v. Healthco Int'l Corp.	30/44/12
175,000	Zuniga v. Baker	30/50/13
159,000	Vacco Industries v. Powell	30/36/24
150,000	Maruca v. General Constr. & Management Co.	30/52/12
150,000	Keenan v. City and County of San Francisco	31/2/8
126,000	Bracy v. Occidental Chemical Co.	31/4/7
125,000	Tobin v. Federal Home Life Ins. Co.	30/46/10
125,000	Victoria v. Kaiser Foundation Hospital	30/34/21

A27

<u>Amount</u>	<u>Case Name</u>	<u>Jury Verdicts Weekly Vol./No./Pg.</u>
120,000	Venegas v. Skaggs	30/32/26
100,000	Faria v. Northwestern National Life Ins. Co.	30/30/20
100,000	Jakymiw v. Custom House Association	30/36/26
100,000	Gilliam v. First National Monetary Corp.	30/41/2
100,000	Long v. Blue Cross of Northern California	31/2/1
100,000	Diehn v. C & C Organization	30/41/31

A28

1987

Punitive Damage Jury Verdicts
\$100,000 And Over

<u>Amount</u>	<u>Case Name</u>	<u>Jury Verdicts Weekly Vol./No./Pg.</u>
\$50,000,000	Conlan v. Wells Fargo Bank	31/52/3
30,000,000	Stanghellini v. Bank of America	32/12/18
22,666,656	Bank of California v. Davis	31/50/16
16,950,000	Collett v. Pluess-Staufer, Inc.	31/41/36
15,000,000	Abellon v. Hartford Ins. Co.	32/15/26
12,963,320	American Motor Inns, Inc. v. Harbor Ins. Co.	32/18/16
5,000,000	Crandall-Millar v. Sierra Vista Hospital	32/1/10
5,000,000	Klein v. Oakland Raiders	31/26/39
4,000,000	Warren v. Colonial Penn Franklin Ins. Co.	31/39/18
3,000,000	Mitchell v. Ferrer	32/18/1
2,914,180	Vigil v. Farmers New World Life Ins. Co.	31/28/1
2,603,765	Vargas v. Retail Clerks Union, Local 1428	31/30/23
2,510,000	KS+A Marketing, Inc. v. Xebec, Inc.	31/37/10
2,500,000	Jenkins v. Insurance Co. of North America	32/3/23
2,290,000	Bryan v. Hudson Bay Mining and Smelting Co.	31/46/25
2,250,000	Pratt v. Stewart Title Co.	31/27/24

A29

Jury Verdicts
Weekly
Vol./No./Pg.

<u>Amount</u>	<u>Case Name</u>	
2,000,000	Kasparian v. Hahn, Cazier & Leff	31/26/24
1,576,500	Gourley v. State Farm Mutual Ins. Co.	31/16/22
1,500,000	Singer v. Ohio Casualty Ins. Co.	31/31/25
1,000,000	Lanouette v. Ciba-Geigy	31/26/18
1,000,000	Johnson v. Spelling-Goldberg Productions	32/15/19
1,000,000	Evans v. Continental Ins. Co.	32/15/22
1,000,000	Rogers v. First Alliance Mortgage Co.	32/8/20
795,000	Kopanic v. Eichenlaub	31/31/6
750,000	Adams v. Murakami	32/5/21
540,000	Ratzlaff v. Chemgold, Inc.	31/47/7
500,000	Cheval v. Great Republic Ins. Co.	31/47/2
500,000	Dean's Materials v. Pacific Telephone & Telegraph Co.	32/29/10
500,000	Stein v. Domyan	31/21/20
500,000	Heilig v. Liquid Air Corp.	31/13/6
450,000	Theisen v. Sommer and Maca Industries, Inc.	31/36/8
400,000	De La Cerda v. Bonded Home Loans	31/48/18
392,264	Conway v. Qualidyne Systems	32/28/37
275,000	Mitchell v. High Society Magazine, Inc.	31/27/20

A30

<u>Amount</u>	<u>Case Name</u>	<u>Jury Verdicts Weekly Vol./No./Pg.</u>
272,859	Luck v. Southern Pacific Transportation Co.	32/9/7
250,000	Morimoto v. Ticor Title Ins. & Trust Co.	32/7/18
250,000	JHJ Co., Inc. v. Farmers Rental Service, Inc.	31/49/15
250,000	Central Bag and Supply Co. v. Int'l Baking Co., Inc.	31/22/19
250,000	Menchaca v. Hammond	31/26/37
250,000	Jafari v. Pahlavan	31/42/10
250,000	Johnson v. Metropolitan Life Ins. Co.	31/42/8
250,000	Arakelian v. Millman	32/2/1
235,600	Nelson v. Shell Oil Co.	32/4/19
225,000	State of Calif. Dept. of Transp. v. Storage Services	32/18/7
200,001	Mobarry v. Lobherr	31/49/25
200,000	Davis v. General Accident Ins. Co.	32/6/12
200,000	Public Ins. Service, Inc. v. Carlisle Ins. Co.	31/25/20
200,000	Westbrook v. Fairchild	31/14/25
200,000	Becker v. Opus Three	31/46/5
150,000	Johnson v. Visalia Newspapers, Inc.	31/21/18
150,000	Curry v. Shell Oil Co.	31/48/3
150,000	Battensehlag v. McCandless	32/23/27
145,125	Beck v. Zattiero	31/23/4
141,000	Dumas v. Stocker	31/35/36
125,000	Casey v. MCI Digital Information Services Corp.	31/35/12

A31

<u>Amount</u>	<u>Case Name</u>	<u>Jury Verdicts Weekly Vol./No./Pg.</u>
125,000	Rode v. Shearson/American Express, Inc.	32/3/27
120,500	Schmidt v. Hyatt Corp.	31/26/9
103,000	Cervenka v. Centro Corp.	31/44/39
100,000	Sims v. Valley Crest Landscape, Inc.	31/45/19
100,000	Sobek v. Sutherland	31/42/3
100,000	Wickes Companies, Inc. v. Tejon Ranch Co.	31/49/14
100,000	Wright v. Holm	31/9/1

A32

1988

Punitive Damage Jury Verdicts
\$100,000 And Over

<u>Amount</u>	<u>Case Name</u>	<u>Jury Verdicts Weekly Vol./No./Pg.</u>
\$147,000,000	Baroway v. KMG Main Hurdman	32/49/16
85,000,000	Riddle v. Southmark Corp.	33/17/33
10,750,000	Young v. Von's Markets	33/7/27
10,500,000	Wegis v. J.G. Boswell Co.	33/6/15
5,006,500	Molett v. Farmers Ins. Exchange	33/13/19
5,000,000	Potter v. Fire Ins. Exchange	33/3/9
3,000,000	Duggan v. Hasso	32/48/11
2,500,000	Amirian v. Brockton Plaza	32/42/23
2,000,000	Koch Membrane Systems v. Advanced Membrane Tech., Inc.	32/41/24
1,500,000	R.A. Fields Co., Inc. v. Mission Industries, Inc.	33/17/15
1,045,000	Roberts v. Ford Aerospace, Inc.	33/21/33
875,000	Adcotech Corp. v. Equitec Leasing Co.	32/36/3
800,001	Farajpour v. University of Southern California	33/11/25
750,000	Abel v. Automobile Club of So. California	32/51/29
750,000	Koire v. Transamerica Occidental Life Ins. Co.	32/49/31
700,000	Dixon v. Fremont Rendezvous, Inc.	33/19/2
650,000	Redlick v. Anderson	32/20/9

A33

Jury Verdicts
Weekly
Vol./No./Pg.

<u>Amount</u>	<u>Case Name</u>	<u>Jury Verdicts Weekly Vol./No./Pg.</u>
500,000	Evans v. Rolling Hills Community Assn.	32/27/16
300,000	Brooks v. Mercury Cas. Co.	32/32/18
280,000	American Nursing Resources, Inc. v. Doe	32/49/4
250,000	Patrick v. Maryland Cas. Co.	32/32/3
250,000	Chappell Masonry, Inc. v. Swanston	33/14/4
250,000	Newell v. Silen	32/36/15
150,000	Moore v. Perry	33/26/20
150,000	Casebolt v. Cranfill	33/21/30
145,487	Cavin v. Fremont Ford	33/23/1
125,000	Van Pelt v. Safeway Stores, Inc.	32/46/3
101,000	Lamont v. State Farm Mutual Auto. Ins. Co.	32/30/2
100,000	Jahamardi v. Tandy Corp.	33/15/24

A34

1989

Punitive Damage Jury Verdicts
\$100,000 And Over

<u>Amount</u>	<u>Case Name</u>	<u>Jury Verdicts Weekly Vol./No./Pg.</u>
\$12,000,000	Kasparian v. Fremont Indemnity Co.	33/45/19
7,250,000	Christian v. Estate of Rock Hudson	33/33/21
6,500,000	Jones v. Johnson Controls, Inc.	33/25/28
5,500,000	Hacker v. Roscoe Moss Co.	33/26/29
4,500,000	Mercedes-Benz of N. A., Inc. v. Hartford Acc. & Indem. Co.	33/40/26
3,800,000	DuBarry Int'l, Inc. v. Southwest Forest Industries, Inc.	33/39/27
3,000,000	Chitwood v. Founders Title Co.	33/31/17
3,000,000	Fernandez v. Citicorp Credit Services	33/28/23
2,500,000	Belle Haven Realty Co. v. CAZ Dev. Co. Eight	33/37/11
2,400,000	Rider v. Flynt	34/10/22
2,014,281	Perrotti v. Syntex Laboratories, Inc.	34/15/22
2,000,000	Signal Carousel Apartments v. Imperial Bank	34/14/28
2,000,000	Kinzel v. Messieh	33/38/23
2,000,000	Bacciocco v. Myers	33/32/4
2,000,000	Jackson v. GAB Business Service, Inc.	33/37/25
2,000,000	Nutri-Metrics v. Gigi Enterprises	34/2/25

A35

Jury Verdicts
Weekly
Vol./No./Pg.

<u>Amount</u>	<u>Case Name</u>	
1,538,000	Ertel v. Kersenbrok	34/11/26
1,060,910	Will v. United Pacific Ins. Co.	33/41/29
1,000,000	Mack v. Pepperidge Farm, Inc.	34/10/30
1,000,000	Bourn v. Farmers Ins. Group	33/36/25
1,000,000	Tinmahan Consultants, Inc. v. Bank of America	33/20/6
850,000	Doyle v. Pattison	34/11/27
850,000	Beeler v. Rent A Car Cheep, Inc.	34/17/25
800,000	Martinolich v. Freedom Newspapers, Inc.	33/38/31
750,000	General Money Order Co., Inc. v. Reese	33/41/19
625,000	D'Arcy v. Union Oil Co. of California	33/26/13
521,000	Calderoni v. Johnston Builders, Inc.	34/8/6
520,000	Weissman v. Terra Nova Industries	33/46/2
500,000	Carpenter v. Snider	33/39/17
425,000	Prillig v. Bianchini	33/29/15
400,000	Spraylat Corp. v. International Marketing, Inc.	34/11/17
400,000	Todt v. Hoh Water Technology Corp.	33/25/25
350,000	Henderson v. Varley	33/49/30
300,000	Cooper v. Fireman's Fund Ins. Companies	34/4/16
300,000	Williams v. State Farm Fire & Cas. Co.	33/45/1

<u>Amount</u>	<u>Case Name</u>	<u>Jury Verdicts Weekly Vol./No./Pg.</u>
257,500	Lamonica v. Bank of America	33/35/2
250,000	Espinola v. Fluid Systems Division, UOP, Inc.	33/50/33
200,000	Sperling v. Burger King	33/40/16
200,000	Monia v. Parnas Corp.	33/43/11
200,000	Monasterio v. Cal Fed Insurance Agency	33/41/19
175,000	Hopson v. Gilleon	33/49/32
150,000	Baumgarten v. Bonanza Management Co.	33/25/1
150,000	Hoffman v. Provident Federal Savings	33/40/12
150,000	Conner v. Marilyn Miglin, Inc.	33/22/10
140,000	Security Pacific National Bank v. Alcaino	33/47/25
123,000	Los Angeles Firemen's Credit Union v. Kennedy	33/48/19
112,000	Olguin v. Shipe	33/39/12
100,000	Enfield v. Ohio Casualty Ins. Co.	34/4/22

APPENDIX B

1976

Punitive Damage Jury Verdicts
\$1,000,000 And Over

<u>Amount</u>	<u>Case Name</u>	<u>Jury Verdicts Weekly Vol./No./Pg.</u>	<u>Result of New Trial Motion Re: Punitive Damages</u>	<u>Source for Result</u>
\$5,300,000	Austero v. Washington National Insurance Co.	20/30/38	Remitted to \$250,000	Ira Rivin Attorney for Defendant

1977

Punitive Damage Jury Verdicts
\$1,000,000 And Over

<u>Amount</u>	<u>Case Name</u>	<u>Jury Verdicts Weekly Vol./No./Pg.</u>	<u>Result of New Trial Motion Re: Punitive Damages</u>	<u>Source for Result</u>
\$10,000,000	Rosener v. Sears, Roebuck & Co.	21/5/2	Denied	110 Cal.App.3d 740, 752 Christina Snyder Attorney for Plaintiff
2,000,000	Von Brimer v. Whirlpool Corp.	22/4/11	Granted	

B2

1978

Punitive Damage Jury Verdicts
\$1,000,000 And Over

<u>Amount</u>	<u>Case Name</u>	<u>Jury Verdicts Weekly Vol./No./Pg.</u>	<u>Result of New Trial Motion Re: Punitive Damages</u>	<u>Source for Result</u>
\$125,000,000	Grimshaw v. Ford Motor Co.	22/14/26	Remitted to \$3.5 million	119 Cal.App.3d 757, 772
4,000,000	Hasson v. Ford Motor Co.	22/45/23	Denied	32 Cal.3d 388, 398
1,750,000	Pawlaczyk v. American Hospital Supply Co.	22/36/18	Denied	John Gilmore Attorney for Defendant
1,500,000	Marmar v. Richards Manufacturing Co.	22/29/19	Denied	Arthur Schwimmer Attorney for Plaintiff
1,075,000	Jones v. Bank of America	22/52/4	Granted	George Duff Attorney for Defendant
1,000,000	Bialak v. Montgomery Ward Co.	22/51/14	Remitted to \$500,000	James Waldorf Attorney for Defendant

B3

1979

Punitive Damage Jury Verdicts
\$1,000,000 And Over

<u>Amount</u>	<u>Case Name</u>	<u>Jury Verdicts</u> Weekly <u>Vol./No./Pg.</u>	<u>Result of</u> New Trial Motion Re: Punitive Damages	<u>Source for</u> Result
\$17,750,003	Harmsen v. Smith	24/5/23	Denied	Jury Verdicts
11,058,810	Seaman's Direct Buying Service v. Standard Oil Co. of Cal.	23/51/1	Remitted to \$7 million	Weekly 36 Cal.3d 752, 762
1,500,001	Kanins v. American Hawaiian Steamship Co.	24/2/29	Denied	Ellis J. Horvitz ^d Attorney for Defendant
1,310,000	Helderman v. Int'l Brotherhood of Elec. Wrks.	23/17/3	Denied	Alan C. Davis Attorney for Defendant
1,000,000	MPB Associates v. United California Bank	23/46/6	Remitted to \$0	Robert Lofts Attorney for Defendant

B4

1980

Punitive Damage Jury Verdicts
\$1,000,000 And Over

<u>Amount</u>	<u>Case Name</u>	<u>Jury Verdicts</u> Weekly <u>Vol./No./Pg.</u>	<u>Result of</u> New Trial Motion Re: Punitive Damages	<u>Source for</u> Result
\$9,900,000	Union Bank v. Fireman's Fund Ins. Co.	24/25/27	Remitted to \$1 million	Maynard Brown Attorney for Defendant
6,510,000	Golf West of Kentucky, Inc. v. Life Investors, Inc.	24/33/22	Denied	Jerold V. Goldstein Attorney for Defendant
4,500,000	Norman v. Colonial Penn Franklin Life Insurance Co.	24/52/19	Denied	John Hager Attorney for Defendant
3,000,000	Sanders Farms, Inc. v. Griffin	24/43/18	Remitted to \$200,000	Jury Verdicts Weekly
2,200,000	C.C. Davis & Co. v. Alioto	24/28/2	Remitted to \$264,000	James Penrod Attorney for Plaintiff

B5

1980 Continued

<u>Amount</u>	<u>Case Name</u>	<u>Jury Verdicts Weekly Vol./No./Pg.</u>	<u>Result of New Trial Motion Re: Punitive Damages</u>	<u>Source for Result</u>
1,500,000	Wayte v. Rollins International, Inc.	25/8/12	Remitted to \$408,000	169 Cal.App.3d 1, 9
1,350,000	Uhlmann Offices, Inc. v. City National Bank	24/51/13	Remitted to \$350,000	Ellis J. Horvitz Attorney for Plaintiff
1,000,000	Glover v. Allstate Insurance Co.	25/2/19	Denied	Donald Ruston Attorney for Defendant
1,000,000	Pistorius v. Prudential Insurance Co.	24/17/3	Denied	123 Cal.App.3d 541, 544 n.2

B6

1981

Punitive Damage Jury Verdicts
\$1,000,000 And Over

<u>Amount</u>	<u>Case Name</u>	<u>Jury Verdicts Weekly Vol./No./Pg.</u>	<u>Result of New Trial Motion Re: Punitive Damages</u>	<u>Source for Result</u>
\$3,117,946	Spieker v. Senator Hotel Associates	26/5/8	Denied	Theodore Marois Attorney for Defendant
3,000,000	Betts v. Allstate Insurance Co.	25/48/17	Denied	154 Cal.App.3d 688, 697
2,500,000	Moore v. American United Life Insurance Co.	26/15/13	Denied	150 Cal.App.3d 610, 642
2,073,559	The Glovatorium, Inc. v. Nat'l Cash Register	25/25/4	Denied	William Irvin Attorney for Defendant
2,000,000	Aceto v. Certified Life Ins. Co. of Cal.	25/27/10	Remitted to \$1 million	Jury Verdicts Weekly
2,000,000	California Shoppers, Inc. v. Royal Globe Insurance Co.	25/38/15	Denied; JNOV granted	175 Cal.App.3d 1, 13

B7

1981 Continued

<u>Amount</u>	<u>Case Name</u>	<u>Jury Verdicts</u> Weekly <u>Vol./No./Pg.</u>	<u>Result of</u> New Trial Motion Re: Punitive Damages	<u>Source for</u> Result
2,000,000	Smithers v. Metro-Goldwyn-Mayer, Inc.	25/46/24	Remitted to \$1 million	Jury Verdicts Weekly
1,500,000	Hinton v. Venture Out in America, Inc.	25/13/8	Denied	Jury Verdicts Weekly
1,500,000	Marino v. Synanon Church	25/43/7	Remitted to \$1 million	Daniel Crawford Attorney for Defendant
1,300,000	Burnett v. National Enquirer, Inc.	25/25/23	Remitted to \$750,000	144 Cal.App.3d 991, 997

B8

1982

Punitive Damage Jury Verdicts
\$1,000,000 And Over

<u>Amount</u>	<u>Case Name</u>	<u>Jury Verdicts</u> Weekly <u>Vol./No./Pg.</u>	<u>Result of</u> New Trial Motion Re: Punitive Damages	<u>Source for</u> Result
\$17,500,000	The P.K.L. Companies v. The Eaton Corp.	26/28/23	Granted	Jury Verdicts Weekly (27/52/21)
10,000,000	West v. Johnson & Johnson Products, Inc.	27/13/8	Remitted to \$1 million	174 Cal.App.3d 831, 840
4,500,000	Norton v. Kaiser Steel Corp.	26/51/30	Granted	Jury Verdicts Weekly
3,000,000	Pitzer v. Security Pacific National Bank	26/18/27	Denied	J. Randall Faith Attorney for Defendant
2,500,000	Pollard v. National Life & Accident Co.	26/50/26	Denied	Jury Verdicts Weekly
2,250,000	Beltz Travel Service, Inc. v. Trans World Airlines	26/15/4	Denied	Steve Tausz Attorney for Defendant

B9

1982 Continued

<u>Amount</u>	<u>Case Name</u>	<u>Jury Verdicts</u> <u>Weekly</u> <u>Vol./No./Pg.</u>	<u>Result of</u> <u>New Trial Motion</u> <u>Re: Punitive</u> <u>Damages</u>	<u>Source for</u> <u>Result</u>
2,000,000	Boles v. Travelers Indemnity Co.	27/17/5	Remitted to \$1.2 million	Jury Verdicts Weekly
1,500,000	Travelers Insurance Co. v. Leshner	26/36/2	No motion filed	Jury Verdicts Weekly
1,125,000	Toshiba Semi Conductor USA v. Consortium	26/24/12	Denied	Thomas Hartwell Attorney for Defendant
1,100,000	Garvey v. State Farm Fire and Casualty Co.	26/17/8	Denied	Jury Verdicts Weekly
1,000,000	Bailey v. U-Haul International, Inc.	26/47/3	Denied	Jury Verdicts Weekly
1,000,000	Klinger v. Plastic & Rubber Products	26/49/21	Denied	Hillel Chodos Attorney for Plaintiff
1,000,000	Thomsen v. Volkswagen of America	26/50/1	Denied	James Crawford Attorney for Plaintiff

B10

1983

Punitive Damage Jury Verdicts
\$1,000,000 And Over

<u>Amount</u>	<u>Case Name</u>	<u>Jury Verdicts</u> <u>Weekly</u> <u>Vol./No./Pg.</u>	<u>Result of</u> <u>New Trial Motion</u> <u>Re: Punitive</u> <u>Damages</u>	<u>Source for</u> <u>Result</u>
\$40,025,000	Fellows v. Allstate Insurance Co.	28/23/19	Granted	Judith Gold Attorney for Defendant
15,000,000	The P.K.L. Companies v. The Eaton Corp.	27/52/21	Denied	Jury Verdicts Weekly
13,054,479	Berk v. National Union Fire Insurance Co.	27/44/16	Denied	Jury Verdicts Weekly
8,456,250	Greenberg v. Coldwell Banker Co.	28/20/25	Remitted to \$2 million	Ellis J. Horvitz Attorney for Plaintiff
8,000,000	Frazier v. Metropolitan Life Insurance Co.	27/24/21	Remitted to \$2 million	169 Cal.App.3d 90, 94
5,000,000	Sprague v. Equifax, Inc.	27/17/31	Remitted to \$1 million	166 Cal.App.3d 1012

B11

1983 Continued

<u>Amount</u>	<u>Case Name</u>	<u>Jury Verdicts</u> <u>Weekly</u> <u>Vol./No./Pg.</u>	<u>Result of</u> <u>New Trial Motion</u> <u>Re: Punitive</u> <u>Damages</u>	<u>Source for</u> <u>Result</u>
2,681,000	Clark v. Wits, Inc.	27/48/16	Denied	Scott Spolin Attorney for Defendant
2,035,000	S.R.H. Fabrics, Inc. v. Formoco Int'l Corp.	27/36/3	Denied	Peter Bersin Attorney for Defendant
2,000,000	Shepler v. Anami Ashram, Inc.	27/18/9	Denied	Burton McGovern Attorney for Defendant
1,800,000	Pitts v. Fibreboard Corp.	28/8/1	Denied	Jury Verdicts Weekly Jury Verdicts Weekly
1,500,000	Young v. Great Western United, Inc.	27/42/26	Denied	Jonathan Erb Attorney for Defendant
1,000,000	Creative Wood Design v. Aetna Casualty and Surety Insurance Co.	28/4/8	Denied	Tony Hemming Attorney for Defendant
1,000,000	Lembo v. Nardoni	28/26/20	Denied	

B12

1984

Punitive Damage Jury Verdicts
\$1,000,000 And Over

<u>Amount</u>	<u>Case Name</u>	<u>Jury Verdicts</u> <u>Weekly</u> <u>Vol./No./Pg.</u>	<u>Result of</u> <u>New Trial Motion</u> <u>Re: Punitive</u> <u>Damages</u>	<u>Source for</u> <u>Result</u>
\$5,000,000	Bertolani v. Equitable Life Assurance Society	28/29/18	Denied	Jury Verdicts Weekly
5,000,000	Downey Savings & Loan Assn. v. Ohio Casualty Ins. Co.	28/28/16	Denied	189 Cal.App.3d 1072, 1099
4,300,000	Dustman v. AMC Jeep Corp.	28/41/13	Remitted to \$1 million	Russell Reiner Attorney for Plaintiff
4,000,000	Haughton v. Unigard Mutual Insurance Co.	28/39/24	Denied	Jury Verdicts Weekly
4,000,000	Royster v. Mission Insurance Co.	28/35/11	Denied	David Simon Attorney for Defendant
3,500,000	Mattie v. Picker Corp.	28/37/9	Denied	Jury Verdicts Weekly
3,000,000	Litwak v. Fed Mart Corp.	28/44/71	Denied	Jury Verdicts Weekly

B13

1984 Continued

B14

<u>Amount</u>	<u>Case Name</u>	<u>Jury Verdicts</u> <u>Weekly</u> <u>Vol./No./Pg.</u>	<u>Result of</u> <u>New Trial Motion</u> <u>Re: Punitive</u> <u>Damages</u>	<u>Source for</u> <u>Result</u>
2,660,000	Seeley v. Seymour	28/20/7	Denied	John Dickson Attorney for Defendant
2,000,000	Ballou v. Traweek Investment Co., Inc.	28/52/25	Remitted to \$250,000	Jury Verdicts Weekly
2,000,000	Taylor v. State Farm Fire & Casualty Insurance Co.	28/39/22	Denied	Jury Verdicts Weekly
2,000,000	Tushinsky v. Tushinsky	28/51/21	Denied	Jury Verdicts Weekly
1,584,000	Phillips v. Travelers Financial Services, Inc.	29/18/16	Denied	Geoffrey Bourroughs Attorney for Defendant
1,500,000	Davis v. Continental Insurance Co.	28/39/13	Denied	Jury Verdicts Weekly

B15

1,500,000	Stern v. Dow Corning Corp.	29/17/18	Denied	Sonja Blomquist Attorney for Defendant
1,500,000	Umann v. More-Ben Insurance Markets Corp.	29/16/3	Remitted to \$750,000	Jury Verdicts Weekly
1,150,000	Farrell v. Police & Fireman Insurance Assn.	28/47/12	Remitted to \$161,000	Jury Verdicts Weekly
1,007,000	Satalich v. State Farm Mutual Auto Insurance Co.	28/37/29	Settled prior to new trial hearing	Ryan Knapp Attorney for Defendant
1,000,000	McNair v. Worldwide Church of God	29/8/22	Denied	Jury Verdicts Weekly

1985

Punitive Damage Jury Verdicts
\$1,000,000 And Over

<u>Amount</u>	<u>Case Name</u>	<u>Jury Verdicts</u> Weekly <u>Vol./No./Pg.</u>	<u>Result of</u> New Trial Motion Re: Punitive Damages	<u>Source for</u> Result
\$125,000,000	Micro/Vest v. Computerland	29/40/1	Denied	Jury Verdicts Weekly Jury
46,500,000	Haun v. NEC Electronics	29/28/12	Granted	Verdicts Weekly Jury
35,000,000	Tan Jay International, Ltd. v. Canadian Indemnity Co.	29/36/23	Remitted to \$500,000	Verdicts Weekly Joseph Ryan Attorney for Defendant
26,675,000	Kruse v. Bank of America	29/48/11	Remitted to \$6 million	Jury Verdicts Weekly Ellis J. Horvitz Attorney for Defendant
20,000,000	Rice Growers Assn. v. Transamerica Delaval, Inc.	29/25/7	Remitted to \$1 million	Verdicts Weekly Ellis J. Horvitz Attorney for Defendant
10,000,000	McCullough v. S & H Insurance Co.	29/20/21	Remitted to \$6 million	Claire Johnson Attorney for Defendant

B16

10,000,000	Stanton v. Continental Casualty Co.	30/17/19	Remitted to \$5 million	Jury Verdicts Weekly David Zwieg Attorney for Defendant
8,500,000	Sykes v. Allstate Insurance Co.	30/7/21	Denied	Jury Verdicts Weekly Ellis J. Horvitz Attorney for Defendant
7,163,340	Tidwell v. Republic Insurance Co.	30/5/13	Remitted to \$932,550	Ellis J. Horvitz Attorney for Defendant
7,000,000	Hronis v. Liberty Mutual Insurance Co.	29/32/25	Remitted to \$2 million	Ellis J. Horvitz Attorney for Defendant
6,243,750	Bryn Mar v. Browne	30/16/32	Remitted to \$4,242,995	Ellis J. Horvitz Attorney for Defendant
5,002,500	Eastridge v. Shell Oil Co.	29/19/38	Denied	Harris Steinberg Attorney for Plaintiff
3,500,000	Nielsen v. Atlantic Richfield Co.	30/5/28	Denied	Jury Verdicts Weekly Ellis J. Horvitz Attorney for Defendant
3,115,000	Wright v. General Accident Fire & Life Assurance Corp.	30/12/21	Remitted to \$2,260,000	Ellis J. Horvitz Attorney for Defendant

B17

1985 Continued

B18

Amount	Case Name	Jury Verdicts Weekly Vol./No./Pg.	Result of New Trial Motion Re: Punitive Damages	Source for Result
3,000,000	Sharma v. Safeco Insurance Co.	29/37/20	Remitted to \$1 million	Jury Verdicts Weekly
2,585,000	E & H Wholesale, Inc. v. Glaser Bros.	29/37/20	Settled prior to new trial hearing	Peter Gelblum Attorney for Defendant
2,500,000	Fitzsimmons v. American Mutual Insurance Co.	29/37/5	Remitted to \$350,000	Jury Verdicts Weekly
2,500,000	Gagnon v. Continental Casualty Co.	29/41/10	Denied	Jury Verdicts Weekly
2,453,294	TRW, Inc. v. GTE Products Corp.	29/35/9	Denied	Ardell Johnson Attorney for Defendant
2,350,000	Rookhuizen v. Aames Home Loan, Inc.	29/29/27	Denied	Gordon Opel Attorney for Defendant

B19

2,127,500	Crake v. Martin	30/14/36	Settled prior to new trial hearing	Michael Portugal Attorney for Defendant
2,120,000	Young v. Knudsen Corp.	29/18/32	Settled prior to new trial hearing	Benjamin Williams Attorney for Defendant
2,002,500	Kreisher v. Mobil Oil	30/29/3	Denied	William O'Brien Attorney for Defendant
2,000,000	Garrett v. Montgomery Ward Co.	30/2/8	Denied	Zachary Smith Attorney for Defendant
2,000,000	Lisec v. United Airlines	30/26/15	Denied	Jury Verdicts Weekly
1,500,000	Emerson v. Hitachi Sales Corp.	30/39/32	Remitted to \$200,000	Craig Jorgenson Attorney for Defendant
1,500,000	Thomsen v. Pacific Telephone & Telegraph Co.	29/37/7	Denied	Jury Verdicts Weekly

1985 Continued

B20

<u>Amount</u>	<u>Case Name</u>	<u>Jury Verdicts Weekly Vol./No./Pg.</u>	<u>Result of New Trial Motion Re: Punitive Damages</u>	<u>Source for Result</u>
1,400,000	Fox v. Hobie Coast Catamaran	29/28/29	Remitted to \$1.1 million	Morton Caplan Attorney for Defendant
1,360,000	Bettencourt v. Fireman's Fund Insurance Co.	29/47/13	Denied	Jury Verdicts Weekly
1,085,000	Orsatti v. Farmer	29/46/20	Remitted to \$0	Robert Wilson Attorney for Defendant
1,060,000	Feldman v. Fox and Carskadon	29/38/9	Remitted to \$250,000	Jury Verdicts Weekly
1,007,500	Bryant v. Merrill, Lynch, Pierce, Fenner & Smith, Inc.	29/21/71	Remitted to \$151,000	Jury Verdicts Weekly

1986

Punitive Damage Jury Verdicts
\$1,000,000 And Over

B21

<u>Amount</u>	<u>Case Name</u>	<u>Jury Verdicts Weekly Vol./No./Pg.</u>	<u>Result of New Trial Motion Re: Punitive Damages</u>	<u>Source for Result</u>
\$20,000,000	Castlerock Properties v. Industrial Indem. Co.	31/22/12	Granted	Jury Verdicts Weekly
15,004,700	Bancroft v. Equifax Services, Inc.	30/50/21	Remitted to \$1,500,000	Peter Taft Attorney for Defendant
14,000,000	April Enterprises, Inc. v. KTTV	30/39/19	Denied	Superior Court File
9,000,000	Kilroy Industries v. United Pacific Ins. Co.	30/47/18	Denied	Mark Clarke Attorney for Plaintiff
6,580,750	Owens v. Snap-On Tools	30/40/8	Settled prior to ruling	Robert G. Partridge Attorney for Defendant
5,600,000	Blough v. State Farm	30/26/33	Denied	Jury Verdicts Weekly
5,000,000	Leonardini v. Shell Oil Co.	30/40/14	Denied	Jury Verdicts Weekly

B22

<u>Amount</u>	<u>Case Name</u>	<u>Jury Verdicts</u> <u>Weekly</u> <u>Vol./No./Pg.</u>	<u>Result of</u> <u>New Trial Motion</u> <u>Re: Punitive</u> <u>Damages</u>	<u>Source for</u> <u>Result</u>
4,000,000	Rodriguez v. Western Dyeing and Finishing Co.	30/39/24	Denied	Ellis J. Horvitz Attorney for Defendant
3,000,000	Dean v. Chrysler Corp.	30/46/8	Remitted to \$900,000	Jury Verdicts Weekly
1,900,000	Corsini v. Joannou	31/2/18	Remitted to \$500,000	Jury Verdicts Weekly
1,600,000	Gallego v. Schaefer	30/34/20	Denied	Jury Verdicts Weekly
1,500,000	Bailey v. Foodmaker, Inc.	30/43/1	Remitted to \$1,000,000	Jury Verdicts Weekly
1,319,000	Badii v. Imperial Bank	31/6/25	No motion filed	Jury Verdicts Weekly
1,250,000	Radell v. Comora	30/40/25	Denied	Jury Verdicts Weekly and 211
1,000,000	Lorenzetti v. United States Fire Ins. Co.	31/9/15	Denied	Cal.App.3d 1244, 1257 Jury Verdicts Weekly

B23

1987

Punitive Damage Jury Verdicts
\$1,000,000 And Over

<u>Amount</u>	<u>Case Name</u>	<u>Jury Verdicts</u> <u>Weekly</u> <u>Vol./No./Pg.</u>	<u>Result of</u> <u>New Trial Motion</u> <u>Re: Punitive</u> <u>Damages</u>	<u>Source for</u> <u>Result</u>
\$50,000,000	Conlan v. Wells Fargo Bank	31/52/3	Remitted to \$25,000,000	Jury Verdicts Weekly
30,000,000	Stanghellini v. Bank of America	32/12/18	Denied	Jury Verdicts Weekly
22,666,656	Bank of California v. Davis	31/50/16	Remitted to \$11,200,000	Hartley T. Hansen Attorney for Defendant
16,950,000	Collett v. Pluess-Staufner, Inc.	3/41/36	Remitted to \$3,850,000	Jury Verdicts Weekly
15,000,000	Abellon v. Hartford Ins. Co.	32/15/26	Denied	Jury Verdicts Weekly
12,963,320	American Motor Inns, Inc. v. Harbor Ins. Co.	32/18/16	Remitted to \$3,000,000	Jury Verdicts Weekly

1987 Continued

<u>Amount</u>	<u>Case Name</u>	<u>Jury Verdicts Weekly Vol./No./Pg.</u>	<u>Result of New Trial Motion Re: Punitive Damages</u>	<u>Source for Result</u>
5,000,000	Crandall-Millar v. Sierra Vista Hospital	32/1/10	Settled prior to hearing	George R. Hillsinger Attorney for Defendant
5,000,000	Klein v. Oakland Raiders	31/26/39	Remitted to \$1,000,000	211 Cal.App.3d 67, 73
4,000,000	Warren v. Colonial Penn Franklin Ins. Co.	31/39/18	Denied	Walter M. Yoka Attorney for Defendant
3,000,000	Mitchell v. Ferrer	32/18/1	Remitted to \$500,000	Jury Verdicts Weekly
2,914,180	Vigil v. Farmers New World Life Ins. Co.	31/28/1	Remitted to \$917,475	Stephen A. McFeely Attorney for Defendant
2,603,765	Vargas v. Retail Clerks Union, Local 1428	31/30/23	Denied	Jury Verdicts Weekly
2,510,000	KS+A Marketing, Inc. v. Xehec, Inc.	31/37/10	Denied	Robert A. Christopher Attorney for Defendant
2,500,000	Jenkins v. Insurance Co. of North America	32/3/23	Denied	Jury Verdicts Weekly

B24

2,290,000	Bryan v. Hudson Bay Mining & Smelting Co.	31/46/25	Remitted to \$250,000	Paul W. Shapiro Attorney for Plaintiff
2,250,000	Pratt v. Stewart Tile Co.	31/27/24	Remitted to \$900,000	Superior Court File
2,000,000	Kasparian v. Hahn, Crazier & Leff	31/26/24	Granted	Jury Verdicts Weekly
1,576,500	Gourley v. State Farm Mutual Ins. Co.	31/16/22	Denied	Ellis J. Horvitz Attorney for Defendant
1,500,000	Singer v. Ohio Casualty Ins. Co.	31/31/25	Denied	Jury Verdicts Weekly
1,000,000	Lanouette v. Ciba-Geigy	31/26/18	Denied	Jury Verdicts Weekly
1,000,000	Johnson v. Spelling-Goldberg Productions	32/15/19	Remitted to \$333,000	Jury Verdicts Weekly
1,000,000	Evans v. Continental Ins. Co.	32/15/22	Settled prior to hearing	Theodore P. Shield Attorney for Defendant
1,000,000	Rogers v. First Alliance Mortgage co.	32/8/20	Granted	Jury Verdicts Weekly

B25

1988

Punitive Damage Jury Verdicts
\$1,000,000 And Over

Amount	Case Name	Jury Verdicts Weekly Vol./No./Pg.	Result of New Trial Motion Re: Punitive Damages	Source for Result
\$147,000,000	Baroway v. KMG Main Hurdman	32/49/16	Denied	Jury Verdicts Weekly
85,000,000	Riddle v. Southmark Corp.	33/17/33	Remitted to \$17,000,000	Ellis J. Horvitz Attorney for Defendant
10,750,000	Young v. Von's Markets	33/7/27	Remitted to \$600,000	Jury Verdicts Weekly
10,500,000	Wegis v. J.G. Boswell Co.	33/6/15	Granted	Harvey H. Means Attorney for Defendant
5,006,500	Molett v. Farmers Ins. Exchange	33/13/19	Denied	Jury Verdicts Weekly
5,000,000	Potter v. Fire Ins. Exchange	33/3/9	Denied	Jury Verdicts Weekly

B26

3,000,000	Duggan v. Hasso	32/48/11	Remitted to \$2,000,000	Jury Verdicts Weekly
2,500,000	Amirian v. Brockton Plaza	32/42/23	Denied	Jury Verdicts Weekly
2,000,000	Koch Membrane Systems v. Advance Membrane Tech., Inc.	32/41/24	Granted	William C. Stephen Attorney for Defendant
1,500,000	R.A. Fields Co., Inc. v. Mission Industries, Inc.	33/17/15	Granted	Jury Verdicts Weekly
1,045,000	Roberts v. Ford Aerospace, Inc.	33/21/33	Denied	Jury Verdicts Weekly

B27

Punitive Damage Jury Verdicts
\$1,000,000 And Over

Amount	Case Name	Jury Verdicts Weekly Vol./No./Pg.	Result of New Trial Motion Re: Punitive Damages	Source for Result
\$12,000,000	Kasparian v. Fremont Indemnity Co.	33/45/19	Denied	Jury Verdicts Weekly
7,250,000	Christian v. Estate of Rock Hudson	33/33/21	Remitted to \$500,000	Jury Verdicts Weekly
6,500,000	Jones v. Johnson Controls, Inc.	33/25/28	Denied	Ellis J. Horvitz Attorney for Defendant
5,500,000	Hacker v. Roscoe Moss Co.	33/26/29	Granted	Jury Verdicts Weekly
4,500,000	Mercedes-Benz of N.A., Inc. v. Hartford Acc. & Indem. Co.	33/40/26	Remitted to \$500,000	Jury Verdicts Weekly
3,800,000	DuBarry Int'l, Inc. v. Southwest Forest Industries, Inc.	33/39/27	Denied	Jury Verdicts Weekly
3,000,000	Chitwood v. Founders Title Co.	33/31/17	Denied	Jury Verdicts Weekly

B28

3,000,000	Fernandez v. Citicorp Credit Services	33/28/23	Remitted to \$1,500,000	Superior Court File
2,500,000	Belle Haven Reality Co. v. CAZ Dev. Co. Eight	33/37/11	Denied	Jury Verdicts Weekly
2,400,000	Rider v. Flynt	34/10/22	Remitted to \$950,000	Kim T. Spirito Attorney for Defendant
2,014,281	Perrotti v. Syntex Laboratories, Inc.	34/15/22	Denied	Jury Verdicts Weekly
2,000,000	Signal Carousel Apartments v. Imperial Bank	34/14/28	Denied	Jury Verdicts Weekly
2,000,000	Kinzel v. Messieh	33/38/23	Denied	Jury Verdicts Weekly
2,000,000	Bacciocco v. Myers	33/32/04	No motion filed	Jury Verdicts Weekly
2,000,000	Jackson v. GAB Business Service, Inc.	33/37/25	Remitted to \$1,000,000	David J. Prager Attorney for Defendant
2,000,000	Nutri-Metrics v. Gigi Enterprises	34/2/25	Denied	Jury Verdicts Weekly

B29

1989 Continued

B30

<u>Amount</u>	<u>Case Name</u>	<u>Jury Verdicts</u> Weekly <u>Vol./No./Pg.</u>	<u>Result of</u> New Trial Motion Re: Punitive Damages	<u>Source for</u> Result
1,538,000	Ertel v. Kersenbrok	34/11/26	Settled prior to filing motion	Ellis J. Horvitz
1,060,910	Will v. United Pacific Ins. Co.	33/41/29	Denied	Attorney for Defendant
1,000,000	Mack v. Pepperidge Farm, Inc.	34/10/30	Denied	Jury Verdicts Weekly
1,000,000	Bourn v. Farmers Ins. Group	33/36/25	Granted	Jury Verdicts Weekly
1,000,000	Tinnahan Consultants, Inc. v. Bank of America	33/20/6	JNOV granted	Jury Verdicts Weekly